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SENATE BILL 99

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Dede Feldman

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO PRESCRIPTION DRUGS; ENACTING THE HEALTH CARE GIFT  
DISCLOSURE ACT; REQUIRING DISCLOSURE AND REPORTING OF CERTAIN  
INFORMATION; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the  
"Health Care Gift Disclosure Act".

Section 2. DEFINITIONS.--As used in the Health Care Gift  
Disclosure Act:

A. "gift" means any payment, compensation for  
lectures, monetary advance, coverage of travel expenses,  
entertainment, food or beverage, services, subsidy or any other  
economic benefit;

B. "health care supply marketing" means  
pharmaceutical detailing, biotechnology, medical device or

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1 supply promotion or other marketing and promotional activities  
2 provided to a physician, hospital, nursing home, pharmacist,  
3 health benefit plan administrator or other person authorized to  
4 prescribe, dispense or purchase prescription drugs,  
5 biotechnology, medical devices or medical supplies in the state  
6 by a person employed by or under contract to a manufacturer or  
7 labeler of prescription drugs, biotechnology, medical devices  
8 or medical supplies; and

9 C. "manufacturer" means a person who manufactures  
10 prescription drugs, biotechnology, medical devices or medical  
11 supplies for sale or consumption in New Mexico.

12 Section 3. HEALTH CARE SUPPLY MANUFACTURERS--DISCLOSURE--  
13 EXEMPTIONS--ANNUAL REPORT.--

14 A. A manufacturer shall annually report to the  
15 office of the attorney general:

16 (1) the value, nature and purpose of any gift,  
17 fee, payment, subsidy or other economic benefit provided in  
18 connection with health care supply marketing; and

19 (2) the name and address of the individual  
20 responsible for the manufacturer's compliance with the  
21 requirements of this section.

22 B. The office of the attorney general shall develop  
23 a form and manner in which to collect information required by  
24 Subsection A of this section and may assess a filing fee to  
25 support the administrative cost of implementing the

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1 requirements of that subsection.

2 C. Exempt from the requirements of Subsection A of  
3 this section are:

4 (1) free samples of prescription drugs,  
5 medical devices or medical supplies for distribution to  
6 patients or free use of medical supplies or medical devices  
7 available for patients;

8 (2) the payment of reasonable compensation and  
9 reimbursement of expenses associated with approved clinical  
10 research trials; and

11 (3) any gift, fee, payment, subsidy or other  
12 economic benefit of no more than twenty-five dollars (\$25.00)  
13 in value.

14 D. The office of the attorney general shall compile  
15 and report annually to the legislature, and make available to  
16 the public, the information provided pursuant to Subsection A  
17 of this section. The information that the office of the  
18 attorney general shall provide to the public shall be posted as  
19 an online database searchable by individual prescribers.

20 Section 4. ENFORCEMENT.--The office of the attorney  
21 general may take action to investigate and enforce the  
22 requirements of Section 3 of the Health Care Gift Disclosure  
23 Act.

24 Section 5. APPROPRIATION.--Twenty-five thousand dollars  
25 (\$25,000) is appropriated from the general fund to the office  
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1 of the attorney general for expenditure in fiscal year 2010 to  
2 implement the provisions of the Health Care Gift Disclosure  
3 Act. Any unexpended or unencumbered balance remaining at the  
4 end of fiscal year 2010 shall revert to the general fund.

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